

Meeting Minutes
Zoning Board of Adjustment
Tuesday, December 22, 2009
Ankeny City Hall – City Council Chambers
410 W. First Street, Ankeny, Iowa

CALL TO ORDER

The December 22, 2009 regular meeting of the Zoning Board of Adjustment was called to order at 5:00 pm by Chairman G.Hunter. Members present: B.Friest, M.Holm, G.Hunter, M.Ott, K.Tomlinson. City Attorney: Hugh Cain. Staff present: J.Peterson, E.Jensen, T.Kuhn.

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE NOVEMBER 3, 2009 MEETING

Motion by B.Friest to approve the November 3, 2009 meeting minutes as submitted. Second by M.Holm. Motion carried 5 – 0.

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

OLD BUSINESS

Request for Executive Session

Motion by B.Friest for a request for Executive Session pursuant to the provisions of Iowa Code Chapter 21.5 sub-paragraph (c) "To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation." Second by M.Holm. All voted aye. Motion carried 5 – 0.

The Board moved to Executive Session at 5:02 pm

The Board reconvened at 5:50 pm.

#08-26 1106 NE 31st St. / 1107 & 1113 NE Milan Ave – Fence Variance Request

#09-03 1107 NE Milan Avenue – Fence Variance Request

Dan Sethi, property owner of 1106 NE 31st Street and 1107 NE Milan Avenue said he appreciates the Board's further consideration.

B.Friest asked Mr. Sethi if legal action will be withdrawn following the proposed action by the Board. Mr. Sethi agreed that it would.

Motion by M.Ott to move action on the Memorandum of Understanding to the Zoning Board of Adjustment dated December 8, 2009 regarding Cases #08-26 1106 NE 31st Street and #09-03 1107 NE Milan Avenue (as attached). Second by B.Friest. Motion carried 4 – 1 (nay: M.Holm).

REPORTS

Renewed Special Use Permits

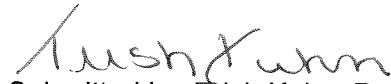
#07-08 Yankee Clipper – 312 SW Maple Street

#08-01 Bistro's & More, Inc dba Old Chicago, 2732 SE Delaware Avenue

#08-03 Wig n Pen Pizza Pub, 2005 S Ankeny Blvd, Suite 300

J.Peterson reported that the Special Use Permit renewals for the Outdoor Service Area were approved administratively following staff review and no report of complaints from police, fire and code enforcement.

There being no further business, the meeting adjourned at 5:55 pm.



Submitted by, Trish Kuhn, Recording Secretary
Zoning Board of Adjustment



MEMORANDUM

John Peterson
Planning and Building Dept. Director
(p) 515.963.3553 (f) 515.963.3535
jpeterson@ankenyiowa.gov

TO: Ankeny Zoning Board of Adjustment
DATE: December 8, 2009
RE: Cases #08-26 1106 NE 31st Street and #09-03 NE Milan Avenue- Fence Variance

STAFF REQUEST:

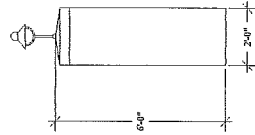
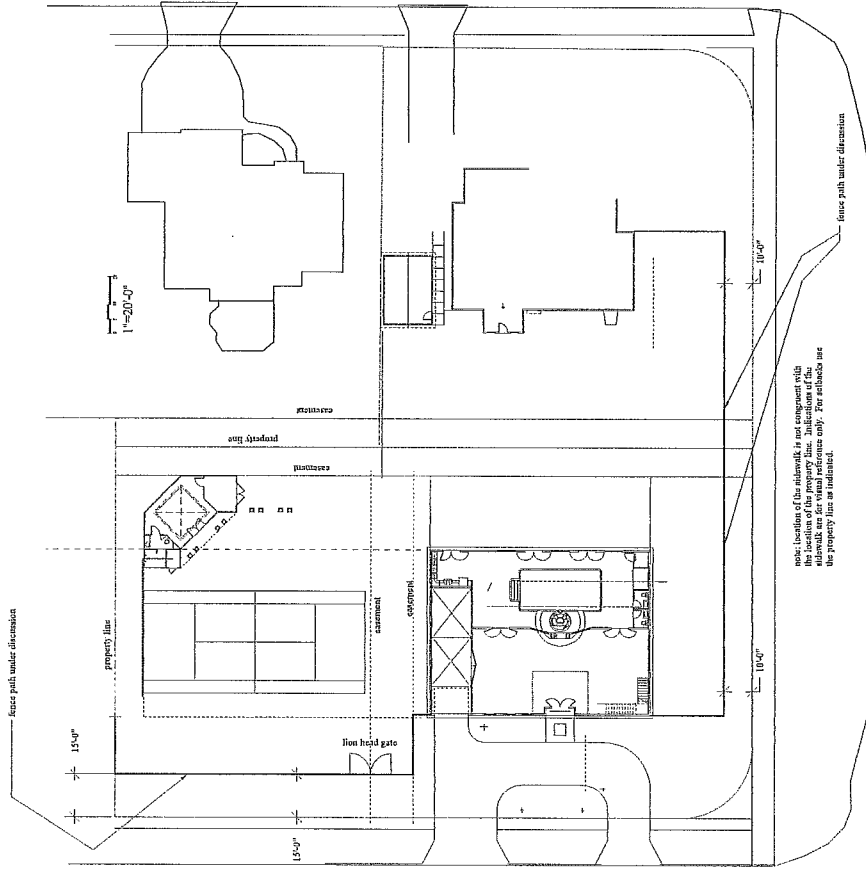
That the Board of Adjustment move to approve the proposed settlement between the City of Ankeny and the property owner, Dinesh Sethi, by amending the Board Actions #08-26 and #09-03 and the subsequent Resolutions #08-26 dated September 16th 2008 and #09-03 dated May 5th, 2009, to read that a fence height variance from the maximum forty-two (42") height allowed by Section 191.13 of the Ankeny Municipal Code be granted to allow a seventy-two (72") inch tall fence with up to ninety six (96") tall columns, an entry gate and light fixtures generally depicted on the attached drawing, Exhibit "A" and located in the following areas;

- 1) The centerline of the fence be placed within an area bounded by a line beginning at a point at the northwest corner of the residential structure located at 1107 NE Milan; thence west parallel to the north property line of Lot 46 Briar Creek Plat 1, to a point ten (10') east of the west property line of Lot 46 Briar Creek Plat 1; thence south parallel to the west property lines of lots 46 and 27 of Briar Creek Plat 1, to a point 35' north of the south line of Lot 27 Briar Creek Plat 1; thence east to a point 35' east of the west property line of Lot 27 Briar Creek Plat 1 and 35' north of the south property line of Lot 27 Briar Creek Plat 1; thence north to the point of beginning, it being understood that the fence columns will encroach outside of this described area by up to 1'; and
- 2) The centerline of the fence be placed within an area bounded by a line beginning fifteen (15') feet south of the northeast corner of Lot 45 Briar Creek Plat 1; thence west to a point 10' west of the east line of Lot 46 Briar Creek Plat 1 and 15' south of the north line of Lot 46 Briar Creek Plat 1; thence south to a point 35' south of the north line of Lot 46 Briar Creek Plat 1; thence east to a point on the east line of Lot 45 Briar Creek Plat 1, 35' south of the northeast corner of said lot; thence north to the point of beginning; it being understood that the fence columns will encroach outside of this described area by up to 1' and the above referenced gate is to be located on the northwest portion of the fence in this area; and

approving the general location of the fence within these described areas as depicted upon the attached drawing labeled Exhibit "B" dated December 3, 2009; subject to release of or agreement to occupy the 10' Public Utility Easement on Lots 27 and 46 Briar Creek Plat between or by MidAmerican Energy, Mediacom and Qwest.

The Board understands this to be a satisfactory settlement to all parties resulting in the withdrawal of legal action Case No. CV 7743 vs the City of Ankeny, et. al., by the Plaintiff, Dinesh Sethi and any future actions related to the fence height or location issues associated with 1107 NE Milan Drive and/or 1106 NE 31st Street, Ankeny, Polk County, Iowa.

Exhibit B

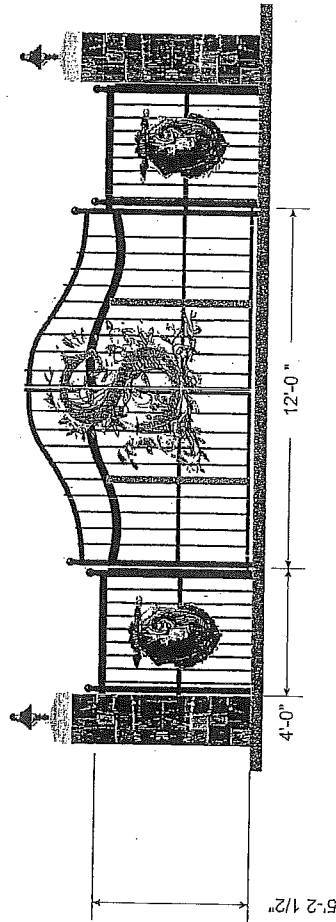


Column foundation to be determined.
Lighting to be determined.
Foundation to be determined.
Foundation to be determined.
Foundation to be determined.
Foundation to be determined.
Foundation to be determined.
Foundation to be determined.
Foundation to be determined.
Foundation to be determined.

Sethi Residence

Prepared by S. Richard (Dick) Shook, 408 Linn St, Slater, Iowa 50244
515-228-3217

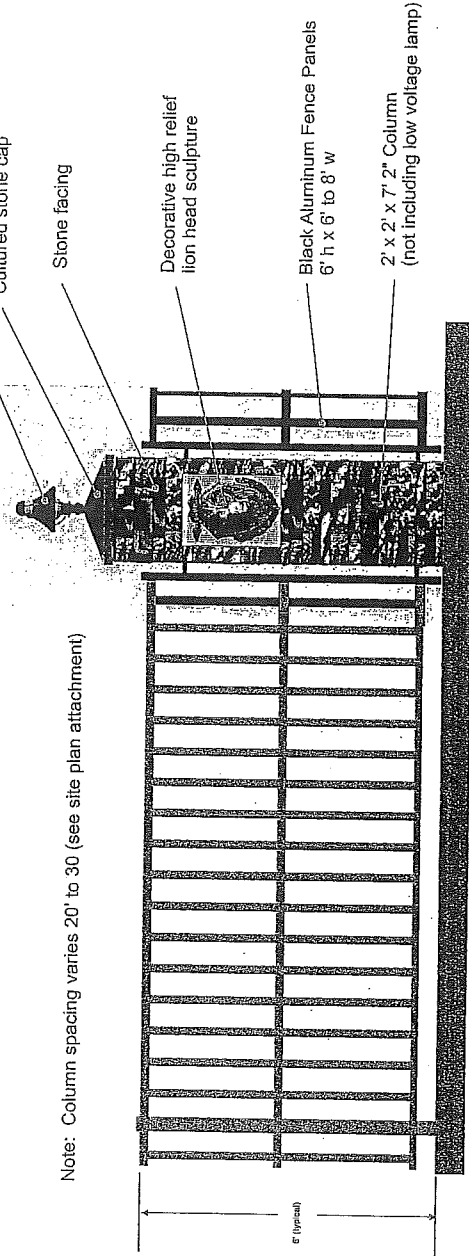
1106 NE 31st
1107 Milan
1113 Milan



Proposed Gate

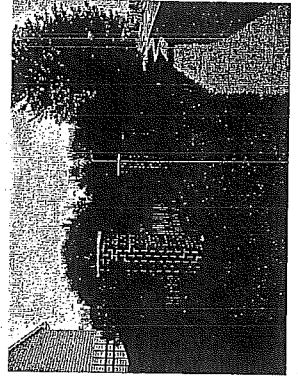
(Not to scale)

Note: Column spacing varies 20' to 30' (see site plan attachment)



Proposed Typical Column and Fence Panels

(Not to scale)

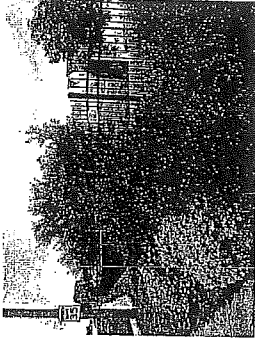


Brianwood South
7' tall brick columns
with steel or aluminum
fence panels and posts.

Similar Community Conditions

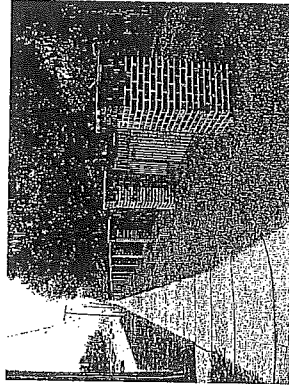
A

Miller's Pointe
72" aluminum fence along property line
includes direct access to Delaware Ave.



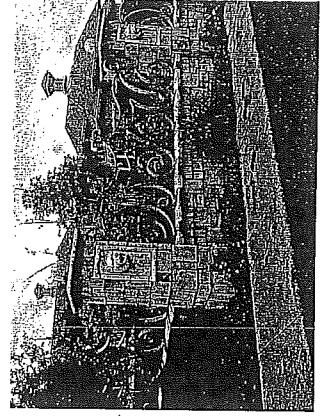
B

Mallard Creek
52" steel or aluminum fence with 63" tall (approx 24" x 24" brick column/posts along property line with direct access to Delaware Ave.



1325 NE Tuscany Blvd

Approx. 7' posts and decorative metal/scrolls with stone columns/posts
sculptural details, with direct access to Tuscany Blvd.



C

D